

**REMARKS**

The Official Action mailed May 27, 2005, and the Advisory Action mailed September 14, 2005, have been received and their contents carefully noted. Filed concurrently herewith is a *Request for One Month Extension of Time*, which extends the shortened statutory period for response to September 27, 2005. Also, filed concurrently herewith is a *Request for Continued Examination*. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on February 26, 2002, and April 4, 2005.

Claims 1-14 were pending in the present application prior to the above amendment. Claims 1-10 have been canceled, claims 11 and 12 have been amended to correct minor matters of form, and new claims 15-26 have been added to better recite the features of the present invention. Accordingly, claims 11-26 are now pending in the present application, of which claims 11, 12 and 15-20 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

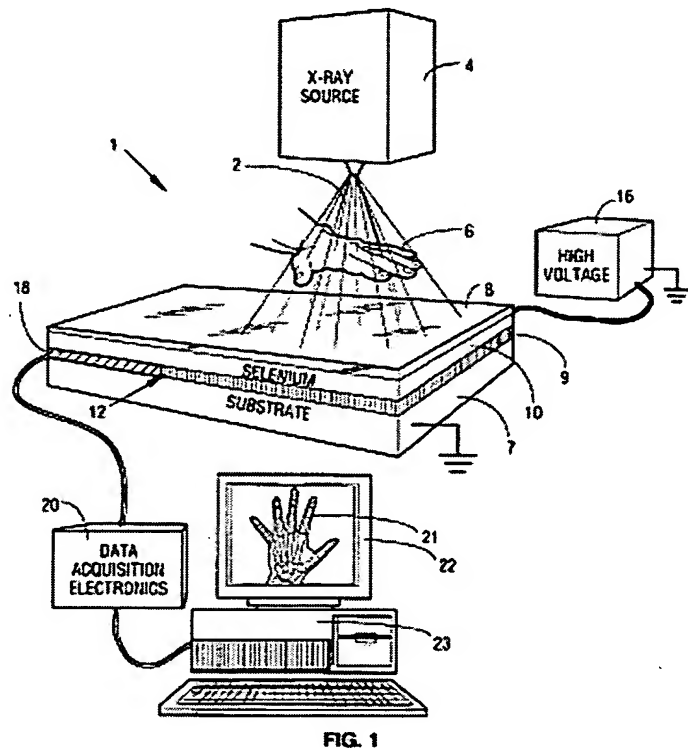
The Advisory Action continues to assert the previous rejection, namely that claims 1, 3, 5, 7, 9, 11 and 13 are anticipated by U.S. Patent No. 5,886,353 to Spivey et al. The Advisory Action asserts that "the recitation 'the pixel portion having a plurality of pixels each comprising a photovoltaic conversion element' has not been given patentable weight because the recitation occurs in the preamble" (page 2, Paper No. 09082005). However, the Applicant notes that independent claims 11 and 12 clearly recite "a pixel portion having a plurality of pixels each comprising a photoelectric conversion element" in the body of the claim. Also, the Applicant has canceled claims 1-10 in favor of new claims 15-26 which clearly recite the above-referenced features in the body of the claim. The Applicant respectfully traverses the rejection because the Official Action has not established an anticipation rejection.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application. The Official Action asserts that Spivey discloses “a method of determining a defective pixel in a pixel portion, the pixel portion having a plurality of pixels each comprising a photoelectric conversion element, comprising the steps of (Fig. 1)” (page 3, Paper No. 04072005). The Advisory Action further asserts that “Spivey clearly discloses [the above-referenced features] in the description for figure 1 [Column 3 Line 65-Column 4 Line 5]” (page 2, Paper No. 09082005). The Applicant respectfully disagrees.

Although Figure 1 of Spivey (reproduced herein) and the associated description in the specification of Spivey appear to disclose an absorbing layer 10 formed separately from and over a pixel array 9, Spivey does not teach that pixel array 9 has a plurality of pixels each comprising a photoelectric conversion element, either explicitly or inherently. That is, pixel array 9 does not comprise a photoelectric conversion element.

Since Spivey does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly,



reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 5 of the Official Action rejects claims 2, 4, 6, 8, 10, 12 and 14 as obvious based on the combination of Spivey and the Baxes article (Baxes, Gregory A., Digital Image Processing, 1994, John Wiley & Sons, Inc., ISBN 0-471-00949-0, page 82). The Applicant respectfully traverses the rejection because the Official Action has not made a *prima facie* case of obviousness.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Please incorporate the arguments above with respect to the deficiencies in Spivey. Baxes does not cure the deficiencies in Spivey. The Official Action relies on Baxes to allegedly teach "calculating a ratio between the first and second image signals of each of the plurality of pixels" (page 7, Paper No. 04072005). However, Spivey and Baxes, either alone or in combination, do not teach or suggest a pixel portion having a

plurality of pixels each comprising a photoelectric conversion element. In other words, Spivey and Baxes do not teach or suggest that pixel array 9 could or should comprise a photoelectric conversion element. Since Spivey and Baxes do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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